

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Sen. Tom Towe, on February 11, 1993, at 1:05 P.M.

ROLL CALL

Members Present:

Sen. Tom Towe, Chair (D)
Sen. Bill Wilson, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Chet Blaylock (D)
Sen. Jim Burnett (R)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Legislative Council
Patricia Brooke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 174
Executive Action: SB 163, HB 174

HEARING ON HB 174

Opening Statement by Sponsor:

Representative Clark, HD 31, stated HB 174 allows police officers and sheriff deputies covered by a collective bargaining agreement to appeal a disciplinary action pursuant to a grievance procedure contained in a collective bargaining agreement. Rep. Clark informed the Committee that in 1991 there was a similar bill that only affected highway patrol officers. It has been in effect without any problems. Rep. Clark also informed the Committee HB 174 passed the House 100-0.

Proponents' Testimony:

Tom Schneider, Executive Director, Montana Public Employees Association, submitted written testimony (Exhibit #2). Mr. Schneider emphasized HB 174 does not mandate anything.

John Manger, Business Representative, Teamsters' Union, urged the

passage of HB 174 because it will clear up questions about rights to a collective bargaining agreement and prevent unnecessary litigation.

Opponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, suggested an amendment to HB 174(Exhibit #4) and informed the Committee each municipality has a Police Commission that works effectively in doing what it was set up to do(Exhibit #3). Mr. Hansen feels the existing system is effective and to bring an arbitrator in from outside the city would not be a good idea.

Bill Ware, Helena Police Chief and Montana Organization for Chiefs of Police, stated his opposition to HB 174. Mr. Ware stated the Police Commission does work and has over the years. Mr. Ware said the Police Commission provides due process by law and officers can appeal to the District and Supreme Courts. He feels the system does work.

Jim Oberhofer, Missoula Police Chief, told the Committee the Police Commission works and urged the Committee to vote against HB 174.

Jerry Williams, Montana Police Protective Association, stated his opposition to HB 174. Mr. Williams has not had any problems in Silver Bow County with the Police Commission.

Informational Testimony:

None

Questions From Committee Members and Responses:

Sen. Lynch stated to Officer Williams that HB 174 does not take away the Police Commission but gives officers the option, after the Police Commission makes a decision, to continue on to either the court or arbitration. Officer Williams responded it is his understanding that once the officer goes through the Police Commission process, and the City Manager or Chief Executive of the City upholds the decision, then the officer can go back and go through the grievance procedure. Officer Williams stated that at the present time there is one procedure and he feels that is fair.

Sen. Lynch asked Rep. Clark if there is a way that a municipality can have an option to abide by HB 174 or keep their current procedures. Rep. Clark replied a grievance procedure comes first, then the arbitration. After that the officer has a choice between going to arbitration or going to court. Tom Schneider, Montana Public Employees Association, said this is not true. Mr. Schneider said HB 174 does not mandate binding arbitration. HB 174 says that if a person is covered by a contract, after the final decision (which is not made by the Police Commission, but by the Mayor), then there is an option to go to final arbitration or District Court. At present, it is mandatory the party go to

District Court.

Sen. Towe asked Alec Hanson what is wrong with going through the Police Commission procedure and then allowing an appeal into the grievance procedure or into an arbitration procedure after that. Mr. Hanson referred the question to Bill Ware who responded that management wants to reserve the right to hire, fire, and discipline. Mr. Ware said the officers have an appeal process in place and they should be held accountable for their actions. Mr. Ware said he does not believe that the unions should be getting something in a union contract to negate that. He said HB 174 is a "union bill."

Sen. Towe rephrased his question to Mr. Ware and asked, assuming the current process is kept and the only change is that instead of appealing to court on the decision, the party can go through arbitration, what is the problem. Mr. Ware stated the problem is the arbitrator does not have to follow due process. Alec Hanson stated the reason his Organization is opposed to HR 174 is because it creates another step to the process, adds to the cost, and the city has no right to appeal. Sen. Towe stated that generally it is cheaper to go through arbitration than to go to District Court.

Sen. Towe asked Mr. Schneider how he responds to the argument that to inject a grievance procedure seems an unrealistic addition to the whole process. Mr. Schneider said the intention is to spell out the grievance procedure in the contract not mandate an appeal to District Court, rather go through collective bargaining with the intention to get to binding arbitration.

Sen. Towe asked Mr. Schneider if the proposed process reduces the role of the Police Commission to something very meaningless if all parties know the dispute will end up in final arbitration, regardless of what the Commission decides. Mr. Schneider stated that situation exists now where everyone knows the decision will end up in District Court.

Sen. Towe asked Mr. Schneider what he thinks of the proposed amendment that puts the Police Commission process after the District Court. Mr. Schneider stated his understanding is that the officer chooses at the start which process to go through.

Sen. Keating asked Mr. Schneider if the Police Commission can render a decision that is not final, but that the mayor can accept, amend, or reject. Mr. Schneider responded in the affirmative.

Closing by Sponsor:

Rep. Clark stated HR 274 will give officers a choice and he supports the proposed amendment.

EXECUTIVE ACTION ON SB 163

Discussion: Russell Hill, Montana Trial Lawyers Association, discussed the issue of immunity in SB 163. Mr. Hill explained that in the context of the amendments, negligence only covers the instance when the safety consultants are on the scene. Mr. Hill's concern is that when the insurer, when rendering the services, is grossly negligent or wanton misconduct is involved, and two months later as a result of the program that was initiated, somebody is hurt. In that instance there is a difference between actual malice (as addressed on page 9, line 4) and gross negligence or wanton misconduct.

Sen. Lynch stated he is not convinced SB 163 needs to be amended to address Mr. Hill's concerns.

Motion/Vote: Sen. Lynch moved SB 163 DO PASS AS AMENDED (Exhibit #1). The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HR 174

Discussion: Sen. Towe stated there are two conflicting concepts when looking at HR 174. One is that the public has a large interest when dealing with the police officers which is why Police Commissions have been set up. The other concept is the collective bargaining concept, with the union being entitled to represent their members and advocate on their behalf. Arbitration is far superior for this, rather than taking it through a court process.

Motion: Sen. Burnett moved HR 174 DO NOT PASS.

Discussion: Sen. Keating stated he is not against collective bargaining, but the Police Commission that is set up appears to work. The Committee discussed the part of HR 174 that dictates the party must go to Court after the decision is made by the Police Commission. Sen. Blaylock stated his concern that the City Executive has the authority to ignore the decision made by the Police Commission. Sen. Keating suggested the Code can be amended to give the Police Commission final authority on the decision. Sen. Aklestad stated the vast majority of the officers do not want this bill passed.

Motion/Vote: Sen. Lynch made a substitute motion to TABLE HR 174. The motion passed with Senators Blaylock, Burnett, and Towe voting NO.

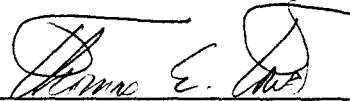
SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

February 11, 1993

Page 5 of 5

ADJOURNMENT

Adjournment: 2:00 P.M.



SENATOR TOM TOWE, Chair



PATRICIA BROOKE, Secretary

TET/pmb

ROLL CALL

SENATE COMMITTEE LABOR

DATE 2/11/93

[illegible]

F08

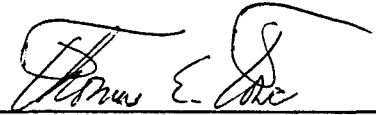
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
February 12, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 163 (first reading copy -- white), respectfully report that Senate Bill No. 163 be amended as follows and as so amended do pass.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 3, line 3.
Following: "aid"
Strike: "a policyholder, management, or an employer"
Insert: "an insured employer"
2. Page 3, line 15.
Following: "to"
Strike: "policyholders or employers"
Insert: "an insured employer"
3. Page 3, line 21.
Following: "advise"
Insert: "insured"
4. Page 3, line 22.
Following: "the"
Strike: "policyholder's"
Insert: "insured employer's"
5. Page 4, line 4.
Following: "activities."
Insert: "(1)"
6. Page 4, line 6.
Strike: "(1)"
Insert: "(a)"
7. Page 4, line 9.
Strike: "(2)"
Insert: "(b)"
8. Page 4, line 14.
Strike: "(a)"
Insert: "(i)"

9. Page 4, line 16.

Strike: "(b)"

Insert: "(ii)"

10. Page 4, line 18.

Strike: "(c)"

Insert: "(iii)"

11. Page 4, line 21.

Following: line 20

Insert: "(2) An employer who employs temporary workers shall include those workers in the employer's safety program. A temporary services contractor shall provide a safety program for employees not employed by other employers."

12. Page 5, line 11.

Following: "comprehensive"

Insert: "and effective"

13. Page 5, line 23.

Strike: "policyholder or employer"

Insert: "insured employer"

14. Page 6, line 4.

Following: "its"

Strike: remainder of line 4

Insert: "insured"

15. Page 6, line 9.

Following: line 8

Strike: "policyholder's or"

Insert: "insured"

16. Page 6, line 12.

Following: "to"

Insert: "insured"

17. Page 6, line 15.

Following: "each"

Strike: "policyholder or"

Insert: "insured"

18. Page 6, lines 23 and 24.

Following: "years" on line 23

Strike: remainder of line 23 through "commissioner" on line 24

19. Page 7, line 9.
Following: "vacancy"
Strike: remainder of line 9 through "expires"

20. Page 9, line 6.
Following: "program"
Insert: "-- expenditure accounting"

21. Page 9, line 18.
Following: line 17
Strike: "an insurer's"
Insert: "the"

22. Page 9, line 25.
Following: line 24
Insert: "(3) The state fund shall separately account for money
expended under [sections 1 through 11 and 39-71-2311]."

23. Page 10, line 4.
Following: line 3
Strike: "policyholders or"
Insert: "insured"

-END-

CLERICAL

5 Bill No. 163

Date: 2-12-93

Time: 5 pm

MER
(Legislative Council Staff)

☒ Thomas E. Towe Labor
S / H Standing Committee
Thomas E. Towe
(Chairman) Towe

☐ S / H Committee of the Whole
(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

22 insert: " ... [sections 1 through 11] and
39-71-2311 (1). "

ROLL CALL VOTE

SENATE COMMITTEE Labor BILL NO. HB 174

DATE 2/11/93 TIME 1:50 A.M. (P.M.)

[illegible]

Patricia Brooke
SECRETARY

Sen. Tom Torne
CHAIR

MOTION: By _____

Amendments to Senate Bill No. 163
First Reading CopyFor the Senate Labor Committee
Prepared by Eddye McClure
February 1, 1993

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10. Page 4, line 18.
Strike: "(c)"
Insert: "(iii)"
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Following: "program"

Insert: "-- expenditure accounting"

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Following: line 17

Strike: "an insurer's"

Insert: "the"

22. Page 9, line 25.

Following: line 24

Insert: "(3) The state fund shall separately account for money expended under [sections 1 through 11 and 39-71-2311]."

23. Page 10, line 4.

Following: line 3

Strike: "policyholders or"

Insert: "insured"

PUBLIC

EMPLOYEES

ASSOCIATION

February 11, 1993

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. #2
DATE 2/11/93
BILL NO. HB 174

TO: Senate Labor Committee

FROM: Thomas E. Schneider, Executive Director

SUBJECT: HB 174

With the passage of the Collective Bargaining Act in 1974 all public employees covered by the Act received the right to bargaining for a grievance procedure to resolve, among other things, discipline and discharge.

Police Officers, Deputy Sheriffs and Highway Patrol Officers already had the statutory right to appeal through the court system.

Through the years it has become apparent that the court system is not the place to resolve such grievances because of the work load of the court, never ending appeals and excessive amounts of time and expense involved.

The legislature in 1991 passed HB 232 sponsored by Rep. Clark which gave members of the Montana Highway Patrol the right to grieve and arbitrate discipline and discharge in lieu of going to court. The process has been accepted by both management and the employees.

Since that time similar problems have arisen in the Police Officer contracts and we now appeal with HB 174 to give Police Officers and Sheriff Deputies the same rights as all other public employees including Montana Highway Patrol Officers.

We feel that HB 174 will allow management and the employees the right to sit down at the bargaining table and set up a discipline and discharge resolution which will relieve the court system and meet the needs of both parties.



SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

2/11/93

7-32-4139 through 7-32-4150 reserved.

7-32-4151. Police commission required in all cities and some towns. (1) In all cities and some towns, the ~~city manager or the manager in those cities operating under the commission-manager plan~~, shall nominate and, with the consent of the city council or commission, appoint three residents of such city or town who shall have the qualifications required by law to hold a municipal office therein and who shall constitute a board to be known by the name of "police commission".

(2) This section shall apply to organized police departments in every city and town of the state which have three or more full-time law enforcement officials, regardless of the form of government under which said city or town may be operating or may at any time adopt.

History: En. Sec. 4, Ch. 136, L. 1907; Sec. 3307, Rev. C. 1907; re-en. Sec. 5098, R.C.M. 1921; amd. Sec. 1, Ch. 119, L. 1923; re-en. Sec. 5098, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1939; amd. Secs. 4, 5, Ch. 152, L. 1947; amd. Sec. 1, Ch. 194, L. 1975; R.C.M. 1947, 11-1804(part).

Cross-References

Municipal commission-manager government, Title 7, ch. 3, part 43.

Municipalities, Title 7, ch. 4, part 41.

7-32-4152. Term and compensation of members of police commission. (1) The appointees to the police commission shall hold office for 3 years, and one such member must be appointed annually at the first regular meeting of the city council or commission in May of each year. However, a member serving on the commission during the hearing or deciding of a case under 7-32-4155 shall continue to serve on the commission for that case until a decision has been made; a new member may not sit on the commission for such business.

(2) The compensation of the members of such board shall be fixed by the city council or commission, not to exceed \$10 per day or more than \$50 per month for any month for each member in cities of the first and second class.

History: En. Sec. 4, Ch. 136, L. 1907; Sec. 3307, Rev. C. 1907; re-en. Sec. 5098, R.C.M. 1921; amd. Sec. 1, Ch. 119, L. 1923; re-en. Sec. 5098, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1939; amd. Secs. 4, 5, Ch. 152, L. 1947; amd. Sec. 1, Ch. 194, L. 1975; R.C.M. 1947, 11-1804(part); amd. Sec. 1, Ch. 453, L. 1979.

Cross-References

Compensation and duties of city employees, 7-5-4110.

Conduct of Municipal Council business, 7-5-4121.

7-32-4153. Meaning of word mayor. Wherever the word "mayor" is used in 7-32-4109 and 7-32-4160 through 7-32-4163, it is intended to include "city manager", "city commissioner", or any other name or designation used to identify or designate the chief executive of any city or municipality.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(11); amd. Sec. 27, Ch. 370, L. 1987.

7-32-4154. Role of police commission in examination of applicants for police force. It shall be the duty of the police commission to examine all applicants whose applications have been referred to the commission as to their

age, legal, mental, moral, and physical qualifications and their ability to fill the office as a member of the police force. It shall also be the duty of the police commission, subject to the approval of the mayor, to make such rules regarding such examinations not inconsistent with this part or the laws of the state.

History: En. Sec. 5, Ch. 136, L. 1907; Sec. 3308, Rev. C. 1907; amd. Sec. 2, Ch. 198, L. 1921; re-en. Sec. 5099, R.C.M. 1921; amd. Sec. 3, Ch. 119, L. 1923; re-en. Sec. 5099, R.C.M. 1935; R.C.M. 1947, 11-1805(part).

Cross-References

Structure of Department of Public Safety
— duties, 7-32-103.

Veterans' public employment preference,
Title 39, ch. 29.

Handicapped persons' public employment
preference, Title 39, ch. 30.

7-32-4155. Role of police commission in hearing and deciding charges against policemen. (1) The police commission shall have the jurisdiction and it shall be its duty to hear, try, and decide all charges brought by any person or persons against any member or officer of the police department, including any charge that such member or officer:

(a) is incompetent or has become incapacitated, by age, disease, or otherwise, to discharge the duties of his office;

(b) has been guilty of neglect of duty, of misconduct in his office, or of conduct unbecoming a police officer;

(c) has been found guilty of any crime; or

(d) whose conduct has been such as to bring reproach upon the police force.

(2) It is the duty of the police commission, at the time set for hearing a charge against a police officer, to forthwith proceed to hear, try, and determine the charge according to the rules of evidence applicable to courts of record in the state.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part).

Cross-References

Department of Public Safety — hearing
required for discharge of subordinate
employee, 7-32-107.

Right to hearing on termination of Deputy
Sheriff's employment, 7-32-2109.

Montana Rules of Evidence, Title 26, ch.
10.

7-32-4156. Charges to be in writing. Any charge brought against any member of the police force must be in writing in the form required by the police commission, and a copy thereof must be served upon the accused officer or member at least 15 days before the time fixed for the hearing of such charge.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(2).

Cross-References

Sheriffs — written notice of termination of
deputy's employment required, 7-32-2108.

7-32-4157. Rights of accused policeman. The accused shall have the right to be present at the trial in person and by counsel and to be heard and to give and furnish evidence in his defense.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part).

Cross-References

Rights of the accused, Art. II, sec. 24, Mont. Const.

7-32-4158. Police commission trials open to public. All trials shall be open to the public.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part).

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

7-32-4159. Subpoena authority of police commission. The chairman or acting chairman of the police commission shall have power to issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing, and any person duly served with a subpoena is bound to attend in obedience thereto. The police commission shall have the same authority to enforce obedience to the subpoena and to punish the disobedience thereof as is possessed by a judge of the district court in like cases; provided, however, that punishment for disobedience is subject to review by the district court of the proper county.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(4).

Cross-References

Subpoenas, Rule 45, M.R.Civ.P. (see Title 25, ch. 20).

Subpoenas and witnesses, Title 26, ch. 2.

7-32-4160. Decision by police commission — veto power of mayor.

(1) The police commission must, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven and shall have the power, by a decision of a majority of the commission, to discipline, suspend, remove, or discharge any officer who shall have been found guilty of the charge filed against him.

(2) Such action of the police commission shall, however, be subject to modification or veto by the mayor, made in writing and giving reasons therefor, which shall become a permanent record of the police commission; provided, however, that where and when the police commission decides the charge not proven, the decision is final and conclusive and is not subject to modification or veto by the mayor or to any review.

(3) Where the police commission decides the charge proven, the mayor, within 5 days from the date of the filing of such findings and decision with the city clerk, may modify or veto such findings and decision.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(5), (6).

EX-100 3

DATE 2-11-93

HB 174

Cross-References

Duties of City Clerk related to city records and papers, 7-4-4502.

Powers and duties of Mayor related to administration and executive function, 7-5-4102.

7-32-4161. Enforcement of decision. When a charge against a member of the police force is found proven by the board and is not vetoed by the mayor, the mayor must make an order enforcing the decision of the board or the decision as modified if modified by the mayor. Such decision or order shall be subject to review by the district court of the proper county on all questions of fact and all questions of law.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(7).

Cross-References

Powers of Mayor related to municipal officers, personnel, and citizens, 7-4-4303.

Powers and duties of Mayor related to administration and executive function, 7-5-4102.

7-32-4162. Hearing required prior to dismissal of policeman. In no case shall any officer or member of the police force be discharged without a hearing or trial before the police commission as provided in 7-32-4155 in all cities of the first class, all cities of the second class, any and all cities having a duly and regularly appointed, qualified, and acting police commission, and all cities and municipalities functioning under the commission form, city manager plan, or a mayor.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(9).

Cross-References

Department of Public Safety — hearing required for discharge of subordinate employee, 7-32-107.

Right to hearing on termination of Deputy Sheriff's employment, 7-32-2109.

7-32-4163. Temporary suspensions. The mayor, or chief of police, subject to the approval of the mayor, shall have the power in all cases to suspend a policeman or any officer for a period of not exceeding 10 days in any one month, such suspension to be with or without pay as the order of suspension may determine. Any officer suspended, with or without pay, is entitled to appeal such suspension to the police commission.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part).

Cross-References

Powers of Mayor related to municipal officers, personnel, and citizens, 7-4-4303.

7-32-4164. District court review. The district court of the proper county shall have jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force, but no suit to review such hearing or trial or for reinstatement to office shall be maintained unless the same is begun within a period of 60 days after the decision

of the police commission or order of the mayor has been filed with the city clerk.

History: En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(8).

Part 42

Municipal Jails

Part Cross-References

County jails, Title 7, ch. 32, part 22.

7-32-4201. Municipal detention centers authorized. The city or town council has power to establish and maintain a detention center, as defined in 7-32-2120, for the confinement of persons convicted of violating the ordinances of the city or town and to make rules for the government of the same.

History: En. Subd. 35, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.34, R.C.M. 1935; R.C.M. 1947, 11-937; amd. Sec. 28, Ch. 461, L. 1989.

Cross-References

General powers of Municipal Council,

7-5-4101.

Detention centers, 7-32-2201.

7-32-4202. Repealed. Sec. 31, Ch. 461, L. 1989.

History: En. Subd. 53, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.52, R.C.M. 1935; R.C.M. 1947, 11-955.

7-32-4203. Repealed. Sec. 31, Ch. 461, L. 1989.

History: En. Subd. 52, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.51, R.C.M. 1935; R.C.M. 1947, 11-954.

Part 43

Powers of Municipal Council Related to Law Enforcement

Part Cross-References

Law Enforcement, Title 44.

7-32-4301. Regulations governing arrest authorized. The city or town council has power to make regulations authorizing the police of the city or town to make arrests of persons charged with crime:

- (1) within the limits of the city or town;
- (2) within 5 miles thereof; and

Enrolled 3
DATE 2-11-93
HB 174

JANUARY 21, 1993

TO: REPRESENTATIVE TOM NELSON
HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

SUGGESTED AMENDMENTS TO HB 174

A. Delete Section 3. of the bill in its entirety.

Reason: Municipal police officers are already adequately protected by the existing law which requires a full blown trial before a three member police commission before an officer can be terminated or suspended for more than ten days. The law currently provides the officer the right to appeal to district court from the decision of the police commission.

OR

B. Amend Section 3. of the bill to provide that police officers may be disciplined, suspended, removed, or discharged by the proper municipal authority and that the officer then has the option to appeal either through the police commission process or through the grievance process in the collective bargaining agreement.

Add sections amending sections 7-32-4155 through 7-32-4164 to clarify that the police commission has jurisdiction only to hear appeals brought by police officers who have been disciplined, suspended, removed, or discharged by a city or town. The decision of the police commission could still be appealed to the district court.

Reason: It is ridiculous to require a city or town to go through a full trial before a police commission, a trial governed by the rules of evidence and at which an accused police officer has the right to be represented by counsel, and then allow the police officer to negate the whole process by electing to go through a grievance process under a collective bargaining agreement. In effect, this would allow a single arbitrator to overthrow the decision of a three member police commission without any right of appeal by the city or town. This is an incredible waste of time, effort and money for everyone involved. The police officer shouldn't be allowed two bites at the apple but should be required to elect up front which method will be followed and then stick to that one method throughout the proceeding.

DATE 2/11/93

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: HB 174

Name	Representing	Bill No.	Check One	
			Support	Oppose
<i>Clayton</i>	Montana Police Assoc.	174		✓
<i>Jimmy Williams</i>	Montana Police Protective Assn	174		✓
<i>Bryan Lockery</i>	Montana Police Protect. Assoc.	174		✓
<i>Bill WARE</i>	Chief of Police City of Helena	174		✓
<i>Scott Arnold</i>	AFSCME	174		✓
<i>Asst J. Hanger</i>	Teamsters	174	✓	
<i>Jim OBERHOFER</i>	MAOOP			✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY